

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

DAVID LYMAN SPALDING,)	
ID # 47371-177,)	
Movant,)	
)	
vs.)	No. 3:19-CV-1547-M-BH
)	
)	
ADMINISTRATIVE OFFICE OF THE)	
COURTS, et al.,)	
Respondents.)	Referred to U.S. Magistrate Judge ¹

RECOMMENDATION REGARDING REQUEST TO PROCEED
IN FORMA PAUPERIS ON APPEAL


Before the Court is the movant's *Certificate of Inmate Trust Account*, received on March 20, 2020 (doc. 31), which is liberally construed as a motion to proceed *in forma pauperis* on appeal.

- (X) The request for leave to proceed *in forma pauperis* on appeal should be DENIED because the Court should certify under Fed. R. App. P. 24(a)(3) and 28 U.S.C. § 1915(a)(3) that the appeal is not taken in good faith, and that it presents no legal points of arguable merit and is therefore frivolous for the reasons set forth in the order filed in this case on December 23, 2019 (doc. 20). The request also should be denied because the movant has failed to provide a signed affidavit or certificate of inmate trust account for the six-month period preceding his notices of appeal to show that he is a pauper. *See* 28 U.S.C. § 1915(a)(2).
- (X) Although this appeal should be certified as not taken in good faith under 28 U.S. C. § 1915(a)(3) and Fed. R. App. P. 24(a)(3), the movant may challenge this finding under *Baugh v. Taylor*, 117 F. 3d 197 (5th Cir. 1997), by filing a separate motion to proceed IFP on appeal with the Clerk of Court, U.S. Court of Appeals for the Fifth Circuit, within 30 days of the district court's order. The cost to file a motion to proceed on appeal with the Fifth Circuit is calculated below, and if the movant moves to proceed on appeal *in forma pauperis*, the prison authorities should be directed to collect the fees as calculated in this order:
- (X) The movant should be assessed an initial partial fee of \$34. *See* 28 U.S.C. § 1915(b)(1).
- (X) Thereafter, the movant should pay \$504.66, the balance of the filing fees, in periodic installments. The movant is required to make payments of 20%

¹ By *Amended Miscellaneous Order No. 6* (adopted by *Special order No. 2-59* on May 5, 2005), requests to proceed *in forma pauperis* on appeal are automatically referred.

of the preceding month's income credited to his prison account until he has paid the total filing fees of \$505.00.

SIGNED this 3rd day of February, 2021.


IRMA CARRILLO RAMIREZ
UNITED STATES MAGISTRATE JUDGE